

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION AT MEMPHIS

MARY PHILLIPA SLEDGE, MARY JANE
PIDGEON SLEDGE TRUST, AND PIDGEON
SLEDGE FAMILY LIMITED PARTNERSHIP,
Plaintiffs,

v.

Case No. 2:13-cv-2578

INDICO SYSTEM RESOURCES, INC.,
AND CLEAL WATTS, III,
Defendants.

DEFENDANTS' MOTION TO EXTEND TIME TO FILE A RESPONSE TO MOTION FOR
DEFAULT JUDGMENT

COME NOW the Defendants, Indico System Resources, Inc. and Cleal Watts, III, by and through counsel and pursuant to Fed.R.C.P. 6(b)(1)(A), and respectfully move this Honorable Court for an order extending time to respond to Plaintiffs' Motion for Default Judgment (Doc. 72) filed on or about June 15, 2015. In support thereof, Defendants would state and show unto the Court as follows:

1. Defendants have retained new counsel, Randall J. Fishman and Richard S. Townley, of Ballin, Ballin and Fishman, P.C., who have filed Notices of Appearance in this cause on June 30, 2015, being the date they were retained.
2. Plaintiffs, in their pending motion, seek the extraordinary remedy of default judgment as a sanction for an alleged discovery violation.
3. To-wit, Plaintiffs allege that Defendant Watts willfully and intentionally failed to appear for a noticed deposition on or about June 11, 2015, in Dallas, Texas. Defendant denies any

intentional or willful conduct and would state that his failure to appear for the noticed deposition was excusable neglect.

4. The time for filing a response to Plaintiffs' Motion under the local rules has expired.
5. Defendants, through their new counsel, seek leave of the Court to extend the time for filing a response. In such response, Defendants would show, among other things, that notice of the June deposition date was sent to Mr. Watts' former counsel, the law firm of Baker Donelson, prior to their withdrawal of the case.
6. Defendants would further show that their former counsel withdrew from the case before the deposition date, and that Defendant Watts had no actual notice of the June 11th deposition until approximately one day before.
7. Defendants would further state that the Plaintiffs will not be prejudiced by a brief extension of time to allow Defendants' new counsel to fully respond to the Motion.
8. Defendants would further state that a brief extension of time would comport with principles of fundamental fairness and would be in the interest of justice.

WHEREFORE, PREMISES CONSIDERED, your Defendants respectfully pray that they be granted an additional fourteen (14) days from the date of this Motion, to file a response to Plaintiffs' pending Motion for Default Judgment.

Respectfully Submitted,

BALLIN, BALLIN & FISHMAN, P.C.

/s/ Richard S. Townley, Esq.
Randall J. Fishman (#7097)
Richard S. Townley (#28164)
200 Jefferson Avenue, Suite 1250
Memphis, TN 38103

(901) 525-6278

Email: ecfcivil@bbfpc.com

Attorney for Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing has been served upon the following this the 1st day of July, 2015:

Darrell N. Phillips
Anthony C. Pietrangelo
John J. Cook
Pietrangelo Cook, PLC
6410 Poplar Avenue, Suite 190
Memphis, TN 38119

/s/ Richard S. Townley, Esq._____